

SUPPORT FOR THE AMENDMENTS

Claims 1-37, 49, 50, 66, 67, 72, and 73 were previously canceled without prejudice.

Claims 38-43, 51, 53, and 54 are amended herein.

Claims 75-77 have been added in the present amendment.

Claims 38, 39, and 51 have been amended to include a proviso that “when E is a C₂₋₁₄ aryl group substituted with one or more hydroxyl groups and A is a phenyl group, said phenyl group is substituted” (note: the language recited here reflects that of Claim 38, Claims 39 and 51 incorporate the proper corresponding substituent designators). Support for this amendment is found in the specification as filed at least at page 7, line 5 to page 197, line 11. Claims 38, 39, 43, and 51 have also been amended to improve clarity and formatting, as well as to delete some superfluous uses of the word “and”. These amendments are supported by the corresponding claims as originally filed. Claims 41 and 42 have been rewritten in independent form by incorporating the limitations of Claims 41 and 42, respectively, into Claim 39. Also, Claims 53 and 54 have been rewritten in independent form by incorporating the limitations of Claims 53 and 54, respectively, into Claim 51. Claim 75 is supported by the specification as filed at least at page 7, line 5 to page 197, line 11. Claims 76-77 are supported by the specification as filed at least at page 197, line 12 to page 200, line 3.

No new matter is believed to have been entered.

REMARKS

Claims 38-48, 51-65, 68-71, and 74-77 are pending in the present application.

At the outset, Applicants wish to thank Examiner Loewe for indication that Claims 41-48, 53, 54, 58-65, 70, and 71 are allowed. Consistent with this indication, Claims 41 and 42 have been rewritten in independent form by incorporating the limitations of Claims 41 and 42, respectively, into Claim 39. Also, Claims 53 and 54 have been rewritten in independent form by incorporating the limitations of Claims 53 and 54, respectively, into Claim 51. Applicants request reconsideration of the rejection of Claims 38-40, 51, 52, 55-57, 68, 69, and 74 based on the amendments herein.

The rejection of Claims 38-40, 51, 52, 55-57, 68, 69 and 74 under 35 U.S.C. §102(a) over Liu et al is respectfully traversed.

In the Office Action, the Examiner indicated that the benefit to priority to the priority application JP 2002-296468 has been denied holding that the JP 2002-296468 does not support the full scope of the claimed invention. The Examiner's newest explanation is that JP 2002-296468 does not provide sufficient support for the claimed genus because heteroaromatic rings are not listed as embodiments under aryl. Applicants make no statement with respect to the propriety of this blanket allegation.

Nonetheless, to obviate this latest criticism by the Examiner, Applicants have presented new Claims 75-77 where in the definition of the substituents of formula (1) the scope of the C₂₋₁₄ aryl groups is limited to a phenyl group (see page 17, line 5 of JP 2002-296468 for support) and the definition of E has been limited to be within the scope of the definition of R11 in Claim 7 of JP 2002-296468. Thus, Applicants submit that new Claims

75-77 find support in JP 2002-296468. Since JP 2002-296468 was filed on October 9, 2002, which is more than seven months prior to the publication date of Liu et al (published on June 15, 2003), Applicants request that the Examiner acknowledge that entitlement to the benefit of priority to JP 2002-296468 in view of the certified English translation of JP 2002-296468¹ filed on November 5, 2009.

With respect to rejected Claims 38-40, 51, 52, 55-57, 68, 69 and 74, Applicants have amended Claims 38, 39, and 51 to include a proviso that “when E is a C₂₋₁₄ aryl group substituted with one or more hydroxyl groups and A is a phenyl group, said phenyl group is substituted” (note: the language recited here reflects that of Claim 38, Claims 39 and 51 incorporate the proper corresponding substituent designators). Applicants submit that this amendment clearly distinguishes Claims 38-40, 51, 52, 55-57, 68, 69 and 74 from Liu et al which has an unsubstituted phenyl at position A when at position E a substituted phenyl group (see compound listed at page 8 of the Office Action mailed August 5, 2009). Since Liu et al fail to disclose or suggest a compound within the scope of Claims 38-40, 51, 52, 55-57, 68, 69 and 74, these claims cannot be anticipated by Liu et al. As such, the rejection over Liu should be withdrawn.

Applicants request withdrawal of this ground of rejection.

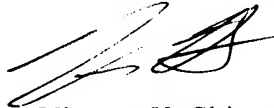
¹ Applicants wish to note that the certified English translation of JP 2002-296468 filed on November 5, 2009, contained a minor error in Claim 7 where a closing bracket was inadvertently omitted from the end of the claim. This error is not believed to change and/or affect the scope of the translation or disclosure of JP 2002-296468. As such a new certified English translation will only be filed upon the request of the Examiner.

Applicants submit that the present application is now in condition for allowance.

Early notification of such action is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'V. Shier', is written over the printed name of Vincent K. Shier.

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